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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,701	10/29/2003	Kenneth P. Glynn	IVC-106A, Case 15	7536

7590 11/10/2004
KENNETH P. GLYNN, ESQ
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EXAMINER

LE, UYEN CHAU N

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/696,701	GLYNN, KENNETH P.	
	Examiner	Art Unit	
	Uyen-Chau N. Le	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prelim. Amdt/Amendment

1. Receipt is acknowledged of the Amendment filed 12 August 2004.

Claim Objections

2. Claims 25-26 and 28 are objected to because of the following informalities:

Re claims 25-26: claim 25 recites "The system of claim 19 wherein said location-identifying bar codes are universal price code bar codes assigned to specific locations *and* are different from all item-identifying bar codes contained within the system, and wherein said processor is programmed to correlate said location-identifying bar codes to their assigned locations," and claim 26 recites "The system of claim 19 wherein said location-identifying bar codes are universal price code bar codes assigned to specific locations *that* are different from all item-identifying bar codes contained within the system, and wherein -- said -- processor is programmed to correlate said location-identifying bar codes to their assigned locations." Accordingly, claims 25 and 26 are identical (i.e., same limitation).

Re claim 26, line 3: Substitute "processor" with -- said processor --.

Re claim 28, lines 1-2: Substitute "consists eventually of" with -- consists essentially of --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 19-23, 25-32 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Conzola et al (US 6,497,367).

Re claims 19 and 28, 32: Conzola et al discloses a system and method for providing a location and item identification data comprising a UPC barcode 36 is printed on a product/item 34 for uniquely identify the product/item 34 (col. 7, lines 37-41); a barcode 38 located on a shelf/location 32 (fig. 2) for uniquely identify the shelf/location 32 (col. 7, lines 35-36); a portable unit 10 having a barcode reading wand 60 for reading the item-identifying barcode 36 and the location/shelf-identifying barcode 38 (fig. 3; col. 8, lines 5+), a processor 80 for receiving inputs from the barcode reading wand 60 (col. 8, lines 34-36), and a storage 88 having both instructions of routines to execute within the processor 80 and data structures, which serves a sufficient program to

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create an item location directory (i.e., field 98a for product/item identification data/value, field 98b for a location/aisle identification corresponds to the product/item identification, etc.) (fig. 4; col. 8, line 60 through col. 9, line 13).

Re claims 20 and 29: barcode labels 40 at the end of the shelving unit 32 include an aisle-identifying label, which identifies the aisle (col. 7, lines 25-27).

Re claims 21-22: the unique-identifying barcode includes a code 40 for genus/aisle data (col. 7, lines 25-27) and for species/shelf data (col. 7, lines 35-36).

Re claim 23: the program includes software for converting the barcode reader/wand 60 inputs to item-identification/corresponding location-identification data pairs (fig. 4).

Re claims 25-26 and 31: Conzola et al teaches that if a read UPC barcode label does not represent the product which is the object of the search, then a determination is made of whether the has just read barcode is an item-identification barcode or an aisle identification barcode (col. 15, lines 11-25); therefore, the barcode identifying an aisle (i.e., location-identification barcode) can also be a UPC barcode and is different from an item-identification barcode.

Re claim 27: the item-location directory is an audible (i.e., synthesized speech) directory (col. 16, lines 42-51).

Re claim 30: a store 106 includes a number of aisles 108, which are identified with individual numerals and/or labels 40, separated by shelving units 32, which can also be identified via labels 38 (fig. 5; col. 9, lines 43-50). The shelves 32 and aisles 108 are already existed within the store area along with identification labels [40, 38], when new products/items are shelved, an identification barcode 36 for uniquely identifying a product and barcodes [40, 38] are being scanned

and inputted to the processor for correlating item-location directory. Therefore, unique location-identifying barcodes [40, 38] must be created the products/items are shelved.

Re claim 34: a speech synthesis routine 94 serves as a second processor for creating item corresponding location information in voice enabling format (fig. 5; col. 16, lines 42-58).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conzola et al in view of Zembitski (US 6,193,160). The teachings of Conzola et al have been discussed above.

Re claims 24 and 33: Conzola et al have been discussed above but fail to teach or fairly suggest that the system further comprising a user feedback unit which includes visual display means for viewing visual feedback in the form of text, or map or a combination thereof; and a barcode reader is wirelessly connected to the data processor, respectively.

Zembitski teaches a barcode reader 5 having a visual display 52 for displaying information identifying quantity of items, items' container's identity and location for later storage (fig. 3b; col. 7, line 64 through col. 8, line 5); and the barcode reader 5 maybe linked to the CPU or a local micro-computer via radio link, which is a wireless link (col. 14, lines 16-44).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Zembitski into the system as taught by Conzola et al in

order to provide Conzola et al with a versatile system that can be used to assist both shoppers who are visually impaired (i.e., via voice/speech formatting) and shoppers who are not visually impaired (i.e., via display). Furthermore, such modification would provide Conzola et al with an alternative system, in which shoppers/operators will have flexibility selecting a desired way (i.e., via a headphone or a display) to receive the requested data, and therefore an obvious expedient.

Response to Arguments

7. Applicant's arguments filed 12 August 2004 have been fully considered but they are not persuasive.

8. In response the Applicant's argument to "The present invention is now specifically reciting "consisting essentially of", instead of "comprising"..." (p. 12, lines 16-18), the examiner respectfully submits that "for the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." See, e.g., PPG, 156 F.3d at 1355, 48 USPQ2d at 1355." Accordingly, the claimed limitation, given the broadest reasonable interpretation, Conzola et al meets the claimed invention (see the rejection above).

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the unique location-identifying bar code be situated on at least one item from each of the plurality of items at that location) are not recited in the rejected claim(s). Although the claims are interpreted in light of

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the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patents to Mariani et al. (US 6164537 A); Long et al. (US 6095414 A); Bowers et al. (US 5963134 A); Murrah (US 5691684 A); Bravman et al. (US 5646389 A); Muehlberger (US 5303844 A) are cited as of interest and illustrate to a similar structure of a product location method utilizing product barcode and product-situated, aisle-identifying barcode.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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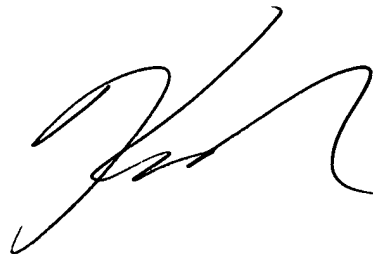
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on Mon, Wed. and Fri. 5:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL G LEE can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Uyen-Chau N. Le
November 2, 2004



KARL D. FRECH
PRIMARY EXAMINER